

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 THOMAS P. REILLY
State Bar No. 110990
4 Deputy Attorney General
California Department of Justice
5 1515 Clay Street, 20th Floor
P.O. Box 70550
6 Oakland, CA 94612-0550
Telephone: (510) 622-2224
7 Facsimile: (510) 622-2121

8 Attorneys for Complainant

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10 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Second Amended Accusation
13 Against:

14 **ARTHUR WILLIAM MATTMILLER, P.T.**

15 Respondent.

Case Nos. 1D-2003-63698 and 1D-2004-
63946

OAH No. N2005090677

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical
22 Therapy Board of California. He brought this action solely in his official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Deputy
24 Attorney General, Thomas P. Reilly.

25 2. Respondent Arthur William Mattmiller (Respondent) is representing
26 himself.

27 3. On July 27, 1973, the Physical Therapy Board of California issued
28 Physical Therapist License No. PT 6447 to Respondent. This license will expire on May 31,

1 2007 unless renewed.

2 JURISDICTION

3 4. The initial accusation in this matter was filed before the Physical Therapy
4 Board of California (Board), Department of Consumer Affairs, on April 4, 2005. This initial
5 accusation and all other statutorily required documents were properly served on Respondent on
6 April 4, 2005. Respondent timely filed his Notice of Defense on April 12, 2005. The Board
7 issued its Amended Accusation, superseding the initial accusation, on July 13, 2005 and its
8 Second Amended Accusation (“the Accusation”) on November 21, 2005. This accusation is
9 currently pending against Respondent and a copy is attached as Exhibit A and incorporated here
10 by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read and understands the charges and allegations
13 in the Accusation. Respondent has also carefully read and understands the effects of this
14 Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in the
26 Accusation. These admissions are limited to these proceedings and to any other administrative
27 proceedings pertinent to professional licensure and shall not be admissible in any civil or
28 criminal proceedings.

9. Respondent agrees that his Physical Therapist License is subject to discipline and he agrees to be bound by the Physical Therapy Board of California (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Physical Therapy Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Physical Therapy Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physical Therapist License No. PT 6447 issued to Respondent Arthur William Mattmiller (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. RESTRICTION OF PRACTICE - SOLO PRACTICE The respondent shall be prohibited from engaging in the solo practice of physical therapy.

2. RESTRICTION OF PRACTICE - GRAVEYARD SHIFT

respondent shall be prohibited from working a graveyard shift or any shift in which there is no other physical therapist on duty.

3. RESTRICTION OF PRACTICE - PROHIBITION OF SELF

EMPLOYMENT OR OWNERSHIP Respondent shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Respondent shall not be an officer of any corporation that offers or provides physical therapy services. Respondent shall not employ physical therapists, physical therapist assistants, or physical therapy aides.

4. RESTRICTION OF PRACTICE - THIRD PARTY PRESENCE

During probation, respondent shall have a third party present while examining or treating female patients. Respondent shall, within 10 days of the effective date of the decision, submit to the Board or its designee for its approval the names of persons who will act as the third party present. If respondent is unable to comply with this condition immediately, he will not examine or treat female patients until he does comply. The respondent shall execute a release authorizing the third party present to divulge any information that the Board may request during interviews by the probation monitor on a periodic basis. The person(s) acting in the role of the third party present shall be provided with a copy of the accusation and decision and order.

5. RESTRICTION OF PRACTICE- NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPY STUDENT INTERNS Respondent shall not supervise any physical therapy student interns during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

6. RESTRICTION OF PRACTICE-NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPIST LICENSE APPLICANTS, PHYSICAL THERAPIST ASSISTANT APPLICANTS, PHYSICAL THERAPIST APPLICANTS, OR PHYSICAL THERAPY AIDES Respondent shall not supervise any physical therapist license applicants, physical therapist license applicants, physical therapist assistants, or physical therapy aides during the entire period of probation. Respondent shall terminate any such supervisory

1 relationship in existence on the effective date of this probation.

2 7. PROBATION MONITORING COSTS Respondent shall reimburse the
3 Board's actual costs incurred for probation monitoring during the entire period of probation.
4 Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within
5 60 days of the billing shall constitute a violation of the probation order.

6 8. COST RECOVERY The respondent is ordered to reimburse the Board the
7 actual and reasonable prosecutorial costs incurred by the Board in this matter in the amount of
8 \$34,017.70. Said costs shall be reduced, however, and the remainder forgiven, if Respondent
9 pays \$100 of said costs per month beginning on the first day of the first month after the effective
10 date of this Decision and continuing on the first of each subsequent month for 36 months. In the
11 event Respondent fails to make any monthly payment within ten (10) days of its due date, the full
12 amount of costs shall be immediately due and payable. Failure to pay the ordered reimbursement,
13 or any agreed upon payment, may constitute a violation of the probation order. The filing of
14 bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the
15 Board. If Respondent is in default of his responsibility to reimburse the Board, the Board will
16 collect cost recovery from the Franchise Tax Board, the Internal Revenue Service, or by any
17 other means of attachment of earned wages legally available to the Board. Failure to fulfill the
18 obligation could also result in attachment to Department of Motor Vehicle registrations and or
19 license renewals.

20 9. OBEY ALL LAWS Respondent shall obey all federal, state and local
21 laws, and statutes and regulations governing the practice of physical therapy in California.

22 10. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be
23 in compliance with any valid order of a court. Being found in contempt of any court may
24 constitute a violation of probation.

25 11. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF
26 RESTITUTION Respondent must not violate any terms and conditions of
27 criminal probation and must be in compliance with any restitution ordered.

28 12. QUARTERLY REPORTS Respondent shall submit quarterly

1 declarations under penalty of perjury on forms provided by the Board, stating whether there has
2 been compliance with all the conditions of probation.

3 13. PROBATION MONITORING PROGRAM COMPLIANCE Respondent
4 shall comply with the Board's probation monitoring program.

5 14. WRITTEN EXAM Within 90 days of the effective date of this decision,
6 Respondent shall take and pass the Board's written examination on the laws and regulations
7 governing the practice of physical therapy in California. If respondent fails to pass the
8 examination, he shall be suspended from practice until a repeat examination has been
9 successfully passed.

10 15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent
11 shall appear in person for interviews with the Board, or its designee, upon request at various
12 intervals and with reasonable notice.

13 16. NOTIFICATION OF PROBATION STATUS TO EMPLOYERS The
14 respondent shall notify all present or future employers of the reason for and the terms and
15 conditions of the probation by providing a copy of the Accusation and the decision and order
16 (stipulated settlement) to the employer. The respondent shall obtain written confirmation from
17 the employer that the documents were received. If the respondent changes employment or
18 obtains additional employment, the respondent shall provide the above notification to the
19 employer and submit written employer confirmation to the Board within 10 days. The
20 notification(s) shall include the name, address and phone number of the employer, and, if
21 different, the name, address and phone number of the work location.

22 17. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The
23 respondent shall notify the Board, in writing, of any and all changes of name or address within
24 ten (10) days.

25 18. RESTRICTION OF PRACTICE - TEMPORARY SERVICES
26 AGENCIES Respondent may only practice or perform physical therapy in a supervised
27 structured environment. The respondent shall not work for a temporary services agency or
28 registry.

1 19. PROHIBITED USE OF ALIASES Respondent may not use aliases and
2 shall be prohibited from using any name which is not his legally-recognized name or based upon
3 a legal change of name.

4 20. WORK OF LESS THAN 20 HOURS PER WEEK If the respondent
5 works fewer than 192 hours in a period of three months, those months shall not be counted
6 toward satisfaction of the probationary period. The respondent shall notify the Board if he works
7 fewer than 192 hours in a three-month period.

8 21. TOLLING OF PROBATION The period of probation shall run only
9 during the time respondent is practicing within the jurisdiction of California. If, during
10 probation, respondent does not practice within the jurisdiction of California, respondent is
11 required to immediately notify the probation monitor in writing of the date that respondent's
12 practice is out of state, and the date of return, if any. Practice by the respondent in California
13 prior to notification to the Board of the respondent's return will not be credited toward
14 completion of probation. Any order for payment of cost recovery shall remain in effect whether
15 or not probation is tolled.

16 22. VIOLATION OF PROBATION If respondent violates probation in any
17 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke
18 probation and carry out the disciplinary order that was stayed. If an accusation or petition to
19 revoke probation is filed against respondent during probation, the Board shall have continuing
20 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
21 is final.

22 23. CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR
23 OTHER REASONS Following the effective date of this probation, if
24 respondent ceases practicing physical therapy due to retirement, health, or for other reasons,
25 respondent may request to surrender his license to the Board. The Board reserves the right to
26 evaluate the respondent's request and to exercise its discretion whether to grant the request or to
27 take any other action deemed appropriate and reasonable under the circumstances. Upon formal
28 acceptance of the tendered license, the terms and conditions of probation shall be tolled until

1 such time as the license is no longer renewable, the respondent makes application for the renewal
2 of the tendered license, or the respondent makes application for a new license.

3 24. COMPLETION OF PROBATION Upon successful completion of
4 probation, respondent's license or approval shall be fully restored.

5 25. WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING
6 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this
7 decision, respondent shall take and pass the Board's written examination on the laws and
8 regulations governing the practice of physical therapy in California. If respondent fails to pass
9 the examination, respondent shall be suspended from the practice of physical therapy until a
10 repeat examination has been successfully passed.

11 26. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE
12 ON PROBATION It is not contrary to the public interest for the
13 respondent to practice and/or perform physical therapy under the probationary conditions
14 specified in the disciplinary order. Accordingly, it is not the intent of the Board that this order,
15 the fact that the respondent has been disciplined, or that the respondent is on probation, shall be
16 used as the sole basis for any third party payor to remove respondent from any list of approved
17 providers.

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ACCEPTANCE

I have carefully read and considered the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Physical Therapist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

DATED: December 12, 2005.

Original Signed By:
ARTHUR WILLIAM MATTMILLER
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physical Therapy Board of California of the Department of Consumer Affairs.

DATED: December 12, 2005.

BILL LOCKYER, Attorney General
of the State of California

Original Signed By:
THOMAS P. REILLY
Deputy Attorney General

Attorney for Complainant

Exhibit A

Accusation Nos. 1D 2003 63698 and 1D 2004 63946

BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Second Amended Accusation
Against:

ARTHUR WILLIAM MATTMILLER, P.T.

Respondent.

Case Nos. 1D-2003-63698 and 1D-2004-63946

OAH No. N2005090677

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 27, 2006.

It is so ORDERED January 26, 2006.

Original Signed By:

FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
Donald A. Chu, PhD, PT, President